

AGENCY COMPLIANCE  
WITH  
LEGISLATION GOVERNING DISPOSAL OF  
FEDERAL RECORDS

1. Authorization for the disposal of Federal Records is governed by Section 101-11.406, Title 41, Code of Federal Regulations, issued by the Administrator of General Services pursuant to Sections 3302, 3303, and 3314, Title 44, United States Code, which are codified provisions of the Records Disposal Act of 1943. Section 101-11.406 establishes procedures for submitting lists and schedules of records proposed for disposal to the Archivist of the United States for approval. No federal records may be destroyed unless they are covered by an approved list or schedule.

2. The Agency complies with these requirements by preparing component and directorate records control schedules covering all Agency records. These schedules list records by series (i.e., groups of related records), provide the series titles and a description of the records included in each series, and indicated whether the records are temporary or permanent. If the records are designated as temporary, the retention period and time for disposal is specified. If the records are designated as permanent, the conditions under which they will be transferred to the National Archives are specified.

3. Once the records control schedules are drafted, they are approved by the appropriate component or directorate head and by the Agency Records Management Officer. They then are submitted to the National Archives and Records Service (NARS) for approval by the Archivist of the United States. During the process of Agency preparation and NARS approval of the schedules, NARS archivists are given access to records throughout the Agency to the extent necessary for proper appraisal of the administrative and historical value of the records.

4. There are two aspects of the appraisal and approval process for Agency records control schedules that differ from those for most agencies. First, the NARS appraisers must hold appropriate national security clearances, special access program clearances, and Agency liaison clearances before being granted access to Agency records. Second, the approved records control schedules, which are classified Secret, are maintained on Agency premises rather than in the custody of NARS. However, to enable NARS to maintain a complete case file, an abbreviated version of each schedule, classified Confidential, is provided to NARS. The abbreviated version, which excludes only the record series descriptions, is the document actually signed by the Archivist based on NARS review of the full-text schedule.

5. A copy of both versions of the schedules also is provided to the Senate Select Committee on Intelligence (SSCI), and the schedules are not implemented until a 60-day period for SSCI review has expired. This procedure was established in 1976 during the "moratorium" on destruction of records that was instituted in 1975 pursuant to Senate Resolution 21. The Agency offered to follow a similar procedure with the House Permanent Select Committee on Intelligence (HPSCI), but HPSCI declined.

6. To ensure compliance with legal requirements, Agency employees, before destroying any records, are required to consult the component Records Management Officer and the custodian of the records to ensure that the records are scheduled for immediate destruction on an approved records control schedule. In addition, any records subject to pending Freedom of Information Act or Privacy Act requests must be segregated from the records being destroyed. Moreover, the records must be checked against the "Office of General Counsel/Office of Legislative Liaison Records Retention Requirements List" to determine whether they are related to actual or impending litigation or to matters under investigation by the Department of Justice or Congress. If this review raises any question as to whether destruction is appropriate, a "Request for Authorization to Retain or Destroy Questionable Records" must be submitted for concurrence by the Office of General Counsel and approval by the Agency Records Management Officer.

7. The above procedures are included in Agency regulatory issuances applicable to all employees. In addition, although not required to do so, the Agency published its records destruction policy and procedures in the form of a Notice in the Federal Registry on 22 November 1976.

8. Records designated as permanent by the Archivist may not become available to historical researchers for many years. The instructions in the Agency's most recent records control schedules specify that permanent records are to be transferred to NARS when national security considerations permit. The only significant collections of records that the Agency has transferred to the National Archives are unclassified Foreign Broadcast Information Service Records and declassified Office of Strategic Services (OSS) records. The OSS collection, however, currently is being maintained under access restrictions based on criteria other than national security classification.

9. Pending declassification and transfer to NARS, permanent records are maintained, under appropriate environmental conditions and security safeguards, in the Agency Archives and Records Center. This facility has been inspected by NARS and approved as a Federal agency records center.

10. The Agency processes requests from historical researchers for access to its records under the Freedom of Information Act and the mandatory declassification review provisions of Executive Order 12356. The mandatory review requests generally are received by referral from the Presidential Libraries managed by NARS.